

WSR 24-20-055
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed September 25, 2024, 1:03 p.m., effective October 26, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed rule language amends WAC 314-55-115 to allow cannabis licensees to purchase cannabis from other licensees by mailing checks under the same conditions applicable to other payment methods identified in WAC 314-55-115. The check must be sent no later than one business day post cannabis delivery, both parties must retain records, including proof of relevant mailing, the sale must be initiated by an irrevocable invoice, and the check must be deposited as soon as is reasonably practical and no later than five business days post cannabis delivery.

Citation of Rules Affected by this Order: Amending WAC 314-55-115.

Statutory Authority for Adoption: RCW 69.50.342, 69.50.345.

Adopted under notice filed as WSR 24-16-063 on July 31, 2024.

Changes Other than Editing from Proposed to Adopted Version: The changes identified in the table below have been made:

Table with 4 columns: Section, Proposed Rule Language (CR 102), Final Rule Language (CR 103), Change Justification. Row 1: (1)(b) Both parties must maintain records of transactions and have the records readily available for the LCB review. Both parties must maintain records of transactions, including relevant proof of mailing, and have the records readily available for the LCB review. Based on public feedback and testimony received during the public hearing, clarifying that proof of relevant mailing needs to be documented when checks are mailed, and to address any potential delays in mail service. Row 2: (8) (N/A) All records must be kept and maintained consistent with the requirements of WAC 314-55-087. Added a reference to existing record requirements to clarify how existing rules affect the amended rule language.

A final cost-benefit analysis is available by contacting Daniel Jacobs, Rules and Policy Coordinator, 1025 Union Avenue S.E., Olympia, WA 98501, phone 360-480-1238, fax 360-664-3208, email rules@lcb.wa.gov, website www.lcb.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: September 25, 2024.

David Postman
Chair

OTS-5457.4

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-115 ((What)) Methods of payment ((can-a)) for cannabis licensees ((use to purchase)) purchasing cannabis((?)). A cannabis licensee must pay cash for cannabis prior to or at the time of delivery. The ((WSLCB)) LCB will recognize the following forms of payment as cash payment for the purpose of this section.

(1) **Checks**, under the following provisions:

(a) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(b) Both parties must maintain records of transactions, including relevant proof of mailing, and have the records readily available for the LCB review.

(c) The check must be sent, delivered, or mailed by the cannabis licensee no later than the first business day following delivery and must be deposited as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a cannabis licensee to delay payment on checks for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(2) **Credit/debit cards**, under the following provisions:

(a) The credit or debit card transaction agreement must be voluntary on the part of both licensees, and there must be no discrimination for nonparticipation in credit or debit card transactions.

(b) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(c) Both parties must bear their respective banking costs or other costs associated with the credit or debit card service.

(d) Both parties must maintain records of transactions and have the records readily available for the ((WSLCB)) LCB review.

(e) The credit or debit card charge must be initiated by the cannabis licensee no later than the first business day following delivery.

(3) **Electronic funds transfer (EFT)**, under the following provisions:

(a) The EFT agreement must be voluntary on the part of both the licensees, and there must be no discrimination for nonparticipation in EFT.

(b) Prior to any EFT transaction, the cannabis licensee must enter into a written agreement specifying the terms and conditions for EFT as payment for cannabis.

(c) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(d) Both parties must bear their respective banking costs or other costs associated with EFT service.

(e) Both parties must maintain records of transactions and have the records readily available for the ((WSLCB)) LCB review.

(f) The electronic funds transfer must be initiated by the cannabis licensee no later than the first business day following delivery and must be paid as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a cannabis licensee to delay payment on EFT transactions for any peri-

od of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(4) **Prepaid accounts.** Both parties must keep accurate accounting records of prepaid accounts to ensure a cash deposit is not overextended, which is considered an extension of credit.

(5) **Transactions using a money transmitter,** under the following provisions:

(a) The money transmitter must be licensed by and in good standing with the Washington state department of financial institutions.

(b) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(c) Both parties must bear their respective costs associated with the money transmitter service.

(d) Both parties must maintain records of transactions and have the records readily available for the ((WSLCB)) LCB to review.

(e) The funds transfer through the money transmitter must be initiated by the cannabis licensee no later than the first business day following delivery and must be paid as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a cannabis licensee to delay payment on money transmitter transactions for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(6) Any transaction reported as having nonsufficient funds (NSF) will be considered an extension of credit. If a transaction is reported as NSF:

(a) The purchaser must pay the full amount of the transaction to the seller by 3:00 p.m. on the first business day following receipt of the NSF report.

(b) Until the NSF transaction is paid:

(i) The cannabis licensee who received the NSF transaction will not deliver any cannabis to the purchaser; and

(ii) It is the responsibility of the purchaser to not receive additional cannabis from any other cannabis licensee.

(7) As used in this section, "delivery" refers to delivery of cannabis.

(8) All records must be kept and maintained consistent with WAC 314-55-087.